

Docket No.: 38586-305

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

DeRobertis et al.

Serial No.: 09/903,188

Filed: July 11, 2001

For: **ENDODERM, CARDIAC AND NEURAL INDUCING FACTORS-HUMAN
FRAZZLED (FRZB-1) PROTEIN**



Customer Number:

Group Art Unit: 167

Examiner: Romeo, Davis S.

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that on **November 12, 2003**, which is the date I am signing this certificate, I am depositing this correspondence in the United States Postal Service, first class mail, in an envelope addressed to the Mail Stop Amendment Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Shayna Fischer

**37 CFR 1.78(a)(3): PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED
CLAIM FOR PRIORITY UNDER 35 U.S.C. 120**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

During the examination of the above referenced case, the Examiner brought to the Applicant's attention an error in the claim of priority. Under 37 CFR 1.78(a)(3) Applicants hereby petition to accept an unintentionally delayed claim for priority.

(i) The Applicant is concurrently submitting an amendment to the specification to reflect the proper priority claim. The Applicant hereby submits that the correct priority for the present application is as follows:

This application is a Divisional of Application Serial No. 09/552,988 filed April 21, 2000, now abandoned, which claims the benefit of Application Serial No. 08/878,474 filed

June 18, 1997, now U.S. Patent No. 6,133,232, which claims the benefit of U.S. Provisional Application No. 60/020,150, filed June 20, 1996.

(ii) The Applicant agrees to pay the surcharge set forth in §1.17(t); and

(iii) The Applicant states that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the present amendment to the proper priority claim was unintentional. Apparently, a typographical error resulted in the omission of the intervening non-provisional application being listed in the proper chain of priority. This omission did not come to applicants' attention until noted by the Examiner in the Office Action of Aug. 21, 2003.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account.

Respectfully submitted,
MCDERMOTT, WILL & EMERY


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Date: November 11, 2003